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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/543,679	04/04/00	NYCE J	EPI-067191

HM22/1004

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EXAMINER	
EPPS, J	
ART UNIT	**PAPER NUMBER**
1635	6

DATE MAILED: 10/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/543,679	Applicant(s) NYCE ET AL.	
	Examiner Janet L Epps	Art Unit 1635	

-- The MAILING DATE of this communication appears on th cover sheet with th correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2000* .

2a)☐ This action is **FINAL**. 2b)☑ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-91* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-91* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

Claims 1-91 are generic to a plurality of disclosed patentably distinct inventions comprising oligonucleotides targeting mRNAs encoding polypeptides according to adenosine receptors A1, A2a, A2b and A3, bradykinin receptors B1 and B2, NfκB Transcription Factor Interleukin-8 Receptor (IL-8 R), Interleukin-5 Receptor (IL-5 R), Interleukin-4 Receptor (IL-4 R), Interleukin-3 Receptor (IL-3 R), Interleukin-1β (IL-1 β), Interleukin-1β Receptor (IL-1beta R), Eotaxin, Tryptase, Major Basic Protein, β2-adrenergic Receptor Kinase, Endothelin Receptor A, Endothelin Receptor B, Preproendothelin, IgE High Affinity Receptor, Interleukin 1 (IL-1), Interleukin 1 Receptor (IL-1 R), Interleukin 9 (IL-9), Interleukin 9 Receptor (IL-9 R), Interleukin 11 (IL-11), Interleukin 11 Receptor (IL-11 R), Inducible Nitric Oxide Synthase, Cyclooxygenase (COX), Intracellular Adhesion Molecule 1 (ICAM-1) Vascular Cellular Adhesion Molecule (VCAM), Rantes, Endothelial Leukocyte Adhesion Molecule (ELAM-1), Monocyte Activating Factor, Neutrophil Chemotactic Factor, Neutrophil Elastase, Defensin 1, 2 and 3, Muscarinic Acetylcholine Receptors, Platelet Activating Factor, Tumor Necrosis Factor-α, 5-lipoxygenase, Phosphodiesterase IV), Substance P, Substance P Receptor, Histamine Receptor, Chymase, CCR-1 CC Chemokine Receptor, CCR-2 CC Chemokine Receptor, CCR-3 CC Chemokine Receptor, CCR-4 CC Chemokine Receptor, CCR-5 CC Chemokine Receptor, Prostanoid Receptors, GATA-3 Transcription Factor, Neutrophil Adherence Receptor, MAP Kinase, Interleukin-9 (IL-9), NFAT Transcription Factors, STAT 4, MIP-1α, MCP-2, MCP-3, MCP-4, Cyclophillins, Phospholipase A2, Basic Fibroblast Growth Factor, Metalloproteinase, CSBP/p38 MAP Kinase, Tryptose Receptor, PDG2, Interleukin-3 (IL-3), Interleukin-1 β (IL-

1 β), Cyclosporin A-Binding Protein, FK5-Binding Protein, α4β1 Selectin, Fibronectin, α 4 β7 Selectin, Mad CAM-1, LFA-1 (CD11a/CD18), PECAM-1, LFA-1, Selectin, C3bi, PSGL-1, E-Selectin, P-Selectin, CD-34, L-Selectin, p150,95, Mac-1 (CD11b/CD18), Fucosyl transferase, VLA-4, CD-18/CD11a, CD11b/CD18, ICAM2 and ICAM3, C5a, CCR3 (Eotaxin Receptor), CCR1, CCR2, CCR4, CCR5, LTB-4, Ap-1 Transcription Factor, Protein kinase C, Cysteinyl Leukotriene Receptor, Tachychinnen Receptors (tach R), I□B Kinase 1 and 2, STAT 6, c-mas and NF-Interleukin-6 (NF-IL-6).

Since the above list of mRNA targets represent mRNAs from independent genes, which are transcribed into chemically different mRNAs with unique three dimensional folding patterns and different accessible cleavage sites for nucleic acid molecules (ribozyme activity), antisense or ribozymes designed to target these individual genes would comprise a distinct set for each gene. Therefore, each set of nucleic acid molecules designed to regulate the expression of these individual genes would represent patentably distinct inventions.

Additionally, Applicants must also select the corresponding antisense oligonucleotides, from SEQ ID NOS: 1 to 2419 that target the above elected gene for search purposes.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L Epps whose telephone number is 703-308-8883. The examiner can normally be reached on Mondays through Friday, 9:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703)-308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-746-5143 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Janet L Epps
Examiner
Art Unit 1635

JLE
October 1, 2001